

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CLARENCE GOLDEN, III, et al.,

Plaintiffs,

Civil Action No.
09-CV-14601

vs.

HON. MARK A. GOLDSMITH

ALLSTATE INSURANCE COMPANY,

Defendant.

**ORDER ALLOWING THE TESTIMONY OF DEFENDANT'S
EXPERT WITNESS, DR. KERTIA BLACK**

This is an insurance dispute that is scheduled for trial on September 26, 2011. Discovery is set to close on June 8, 2011. Currently at issue is whether Defendant's expert witness, Dr. Kertia Black, should be permitted to testify at trial. Both parties have submitted memoranda in support of their respective positions. The Court has thoroughly reviewed the memoranda and, for the reasons that follow, will allow Dr. Black's testimony.

Plaintiff argues that Dr. Black should not be permitted to testify because she was not listed as a witness in the parties' proposed joint final pretrial order, which was submitted in August 2010 to the judge previously assigned to this case. However, a review of the docket reflects that the proposed order was never entered by the Court. Further, while Plaintiff asserts that he would suffer prejudice in the event Dr. Black were permitted to testify, Plaintiff does not explain specifically how he would be prejudiced in light of the fact that, under the Court's new scheduling order, the June 8, 2011 discovery deadline has not yet expired, and Defendant is willing to produce Dr. Black for deposition in this matter after the production of her expert report. Under these circumstances, the Court discerns no unfair prejudice to Plaintiff as a result of allowing Dr. Black's testimony.

In addition, according to Defendant, although Dr. Black's testimony was previously unnecessary, the underlying circumstances pertaining to the nature of Plaintiff's claims have changed such that Dr. Black's testimony is now necessary. Moreover, Dr. Black is not a complete surprise to Plaintiff, as she was listed in Defendant's preliminary witness list, which was filed on February 23, 2009, before the matter was removed from state court.

For all these reasons, Dr. Black will be permitted to testify at trial. If Plaintiff is unable to complete Dr. Black's deposition prior to the June 8, 2011 discovery deadline, he may file a motion seeking a reasonable enlargement of the discovery period (up to one month).

SO ORDERED.

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

Dated: May 24, 2011
Flint, Michigan

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on May 24, 2011.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager